

1  
2  
3  
4                   **STATE OF CONNECTICUT**  
5                   **OFFICE OF HEALTH STRATEGY**  
6  
7

8           **Docket No.: 20-32376-CON**

9                   **Proposal: Acquisition of a Computed**  
10                   **Tomography ("CT") Simulator and**  
11                   **Technology New to the State**  
                    **(Statute Reference 19a-639)**

12           **Applicant: Danbury Proton, LLC (Danbury, CT)**  
13

14                   **Public/Administrative Hearing held via**  
15           **Teleconference, on April 22, 2022, beginning at 10 a.m.**

16           **H e l d    B e f o r e :**

17                   **VICTORIA VELTRI, ESQ., THE HEARING OFFICER**  
18  
19  
20  
21  
22  
23  
24  
25

1   **A p p e a r a n c e s :**

2   **For the Applicant:**

3           **CARMODY, TORRANCE, SANDAK & HENNESSEY, LLP**

4           **P.O. Box 1950**

5           **195 Church Street**

6           **New Haven, Connecticut 06509-1950**

7           **By: DAVID S. HARDY, ESQ.**

8                   **DHardy@carmodylaw.com**

9                   **203.784.3119**

10  
11   **OHS Staff:**

12           **LARA MANZIONE, ESQ.**

13           **DANIEL CSUKA, ESQ.**

14

15

16

17

18

19

20

21

22

23

24

25

1 (Begin: 10 a.m.)

2  
3 THE HEARING OFFICER: We're going to begin now. It's  
4 10 a.m. And I'm going to open up here. The  
5 Applicant in this matter, Danbury Proton, LLC,  
6 seeks to acquire equipment utilizing technology  
7 not previously utilized in the state under  
8 Connecticut General Statutes --

9 (Interruption.)

10 THE HEARING OFFICER: Everyone should be muted, please.

11 MICHAEL GRACE: Good morning, your honor. Michael  
12 Grace.

13 THE HEARING OFFICER: I'm sorry. Please mute your  
14 devices. Thank you very much. I'll begin again  
15 just for clarity.

16 The Applicant in this matter, Danbury Proton,  
17 LLC, seeks to acquire equipment utilizing  
18 technology not previously utilized in the state  
19 under Connecticut General Statutes Section  
20 19a638(a)13.

21 Specifically, the Applicant proposes to  
22 establish a proton therapy center in Danbury,  
23 Connecticut, and as part of that proposal also  
24 seeks to acquire a CT simulator for treatment  
25 planning.

1           On February 28, 2022, the Hearing Officer in  
2 this matter issued a proposed final decision  
3 denying the application. On March 16, 2022,  
4 Danbury Proton filed exceptions and requested oral  
5 argument. On April 4, 2022, the Office of Health  
6 Strategy, which I'm going to refer to as OHS as we  
7 go forward, issued a notice of a hearing for  
8 today. The hearing before the Office of Health  
9 Strategy is being held right now on April 22,  
10 2022.

11           My name is Victoria Veltri. I am the  
12 Executive Director of the Office of Health  
13 Strategy, and I will be issuing the final decision  
14 in this matter. Also present on behalf of the  
15 agency is Staff Attorney and Health Systems  
16 Planning Manager, Lara Manzione; as well as Staff  
17 Attorney and Hearing Officer Daniel Csuka.

18           Public Act 212, Section 149, effective July  
19 1, 2021, authorizes an agency to hold a public  
20 hearing by means of electronic equipment. In  
21 accordance with the public act, any person who  
22 participates orally in an electronic meeting shall  
23 make a good faith effort to state his or her name  
24 and title at the outset at each occasion that  
25 person participates orally during an uninterrupted

1 dialogue or series of questions and answers. We  
2 ask that all members of the public mute the device  
3 you are using to access the hearing and silence  
4 any additional devices that are around you.

5 This hearing concerns only the Applicant's  
6 oral argument regarding the exceptions to the  
7 proposed final decision, and it will be conducted  
8 under the provisions of Chapter 54 of the  
9 Connecticut General Statutes.

10 While I cannot impose time constraints, I do  
11 not expect this to be a very long hearing, perhaps  
12 15 to 20 minutes or so.

13 The certificate of need process is a  
14 regulatory process, and as such the highest level  
15 of respect will be accorded to the Applicant and  
16 to the staff of OHS. Our priority is the  
17 integrity and transparency of this process.  
18 Accordingly, decorum must be maintained by all  
19 present during these proceedings.

20 This hearing is being transcribed and  
21 recorded, and the video will also be made  
22 available on the OHS website and its YouTube  
23 account.

24 All documents related to this hearing that  
25 have been or will be submitted to the Office of

1 Health Strategy are available for review through  
2 our electronic certificate of need portal, which  
3 is accessible on the OHS BON webpage.

4 Although this hearing is open to the public,  
5 only the Applicant and its representatives and OHS  
6 and its representatives will be allowed to make  
7 comment. Accordingly, the chat feature is  
8 disabled.

9 At this hearing, which is being held  
10 virtually, we ask that anyone speaking to the  
11 extent possible enable the use of video cameras  
12 when speaking during the proceedings. In  
13 addition, anyone who is not speaking shall mute  
14 their electronic devices, as I said earlier,  
15 including telephones, televisions and other  
16 devices not being used to access the hearings.

17 Lastly, as Zoom hopefully notified you in the  
18 course of entering the meeting, I wish to point  
19 out that by appearing on camera in this virtual  
20 hearing you are consenting to being filmed. If  
21 you wish to revoke your consent, please do so at  
22 this time. However, please be advised that the  
23 hearing will be continued to a later date if you  
24 do so.

25 We will proceed in the order established in

1 the agenda for today's hearing. I want to also  
2 remind people that this is an opportunity for oral  
3 argument only on the exceptions filed to the  
4 proposed decision. It is not an opportunity to  
5 introduce new evidence in the record or have  
6 witnesses testify.

7 This is an oral argument. It will probably  
8 be made by counsel for the Applicant.

9 So counsel for the Applicant, could you  
10 please identify yourself for the record?

11 MR. HARDY: Good morning, Director Veltri. David Hardy  
12 of Carmody, Torrance, Sandak & Hennessey for  
13 Danbury Proton, LLC.

14 THE HEARING OFFICER: Good morning, Mr. Hardy. It's  
15 nice to see you.

16 Are there other housekeeping or procedural  
17 issues we need to address before we start?

18 MR. HARDY: Director Veltri, I take it by your  
19 introductory comments that screen sharing, for  
20 example, is something that you don't want to  
21 entertain this morning?

22 THE HEARING OFFICER: Well, because this is purely an  
23 oral argument where it will be an oral argument,  
24 it's not really an opportunity to introduce a  
25 presentation for evidence on the records.

1           It's your opportunity to make your oral  
2           argument based on what you've provided us already  
3           that's in the record.

4   MR. HARDY:    Sure.   Understood.   I just had some matters  
5           that were of record that I had planned to make  
6           reference to, but can proceed without them if  
7           that's what you prefer.

8   THE HEARING OFFICER:   I think we would prefer you to  
9           just make a reference to the location in the  
10          record, if you're able to do that, since we have  
11          the record accessible to us as well.

12   MR. HARDY:    Sure.

13   THE HEARING OFFICER:   That would be helpful.   Thank  
14          you.

15                Any other housekeeping matters?

16   MR. HARDY:    No.

17   THE HEARING OFFICER:   Okay.   Mr. Hardy, you may  
18          introduce people -- if you would like -- who were  
19          on, but obviously the oral argument will be  
20          limited to counsel for the Applicant.

21   MR. HARDY:    Understood.   Many of the principals and  
22          representatives of Danbury Proton are on this  
23          Zoom, but in the interest of time, I'd just as  
24          soon proceed to the argument.

25   THE HEARING OFFICER:   Okay.   Thank you very much.

1           You can begin whenever you're ready. And I  
2 again please ask everybody to ensure that you're  
3 muted and give your attention to counsel for the  
4 Applicant for uninterrupted argument.

5           So thank you very much.

6           Please go ahead, Mr. Hardy.

7 MR. HARDY: Well, thank you. I want to thank you,  
8 Director Veltri, for your time this morning. And  
9 I do want to thank the staff of OHS who has worked  
10 under very extraordinarily challenging  
11 circumstances over the past two years to process  
12 Danbury Proton's certificate of need application.

13           And secondly, I did want to state on behalf  
14 of Danbury Proton that its very pleased that OHS  
15 has granted a certificate of need to Connecticut  
16 Proton Therapy Center in Wallingford.

17           The trajectory of proton therapy as the  
18 optimal mode of radiation treatment for cancer  
19 patients is undeniable, and so we're very pleased  
20 that OHS has appropriately recognized the clinical  
21 benefits of this life-saving technology as well as  
22 the need for it in our state.

23           And so today I intend to explain based on the  
24 record of our application why Danbury Proton's  
25 facility is critical to meeting the need for

1 proton therapy in this state, and to providing  
2 access to large segments of Connecticut's  
3 population who realistically will remain unserved  
4 by a single treatment room in Wallingford.

5 Our March 16, 2022, exceptions to the  
6 proposed decision are of record, and we stand by  
7 them. Importantly, though, those exceptions were  
8 submitted prior to the release of the April 7,  
9 2022, decision approving the Connecticut Proton  
10 Therapy Center certificate of need. And because  
11 of that I intend to focus my remarks this morning  
12 on why the findings made in that decision call for  
13 a reconsideration of the proposed decision that  
14 has been issued for Danbury Proton.

15 And in particular, I want to focus on how  
16 that decision supports and establishes the  
17 importance of the Danbury Proton proposal in terms  
18 of meeting Connecticut's need and improving access  
19 for Connecticut residents with the placement of a  
20 second treatment room located in the southwest  
21 corner of Connecticut.

22 In many respects the Danbury Proton proposal  
23 mirrors the Wallingford proposal. Our facility  
24 organization is similar. We're working with a  
25 501(c)(3) nonprofit who will be issuing tax exempt

1 bonds for the project and will be the asset owner  
2 of the project.

3 The experience and the credentials of Danbury  
4 Proton team are exceptional and unquestionable.  
5 Dr. Leslie Yamamoto, Dr. Andrew Chang, and Dr.  
6 Michael Moyers are all nationally recognized  
7 experts in their fields.

8 You may have read that just last week a  
9 Nevada jury awarded a family of a deceased cancer  
10 patient \$200 million based on a refusal to provide  
11 that patient with access to proton therapy.

12 And I mention that because, one, Dr. Chang  
13 was the expert for the family in that case. But I  
14 also mention it because I think that is an  
15 indication of where the commercial healthcare  
16 insurance landscape will be shifting, in favor of  
17 covering proton therapy, which of course is our  
18 sincere hope that that will continue to improve.

19 And importantly the proposed decision does  
20 recognize that Danbury Proton already has in place  
21 personnel who will staff the new technology, who  
22 are qualified, and who are adequately trained to  
23 do so. So that, that has been termed to be a  
24 nonissue for Danbury Proton.

25 The proposed decision also made several

1 favorable findings about Danbury Proton, including  
2 that it would improve healthcare quality and  
3 accessibility in our state, that it would be  
4 supported by utilization of existing healthcare  
5 facilities in our state. That it would provide  
6 equitable access to services for Medicaid  
7 recipients and indigent persons, and that it would  
8 increase the diversity of healthcare providers and  
9 would increase patient choice in our state.

10 So there are a number of positive findings by  
11 Danbury Proton that are contained in the proposed  
12 decision. And indeed, Danbury Proton does have  
13 overwhelming support from the Danbury community,  
14 its residents, its government and community  
15 leaders, the business community.

16 And I think part of the reason why that  
17 support has been generated and why you see so many  
18 people on the Zoom hearing today is that Danbury  
19 proton has been extraordinarily transparent -- I  
20 would say, comfortably transparent with the public  
21 and its supporters at every step of the way in  
22 this two-plus year process seeking a certificate  
23 of need for its facility.

24 As OHS is aware, the legislative delegation  
25 for Danbury, its members have all been unanimously

1 and ardently supportive of this project. They  
2 have written letters in support of the  
3 application. They testified at the public hearing  
4 on April 1st, and this project is shovel ready.

5 Should OHS change course and issue a  
6 certificate of need, this project is ready to be  
7 in a position by early 2024. Its land use  
8 approvals are in place. The Mevion equipment,  
9 that's been selected not only for its  
10 technological excellence, but also its ability to  
11 support clinical research -- it's made in  
12 Massachusetts. There's a commitment that it can  
13 meet the proposed construction schedule.

14 The conditional financing approvals are in  
15 place and they are ready to move forward should  
16 OHS grant Danbury Proton a certificate of need.

17 Now on the issue of need, the location of  
18 Danbury was chosen due to its proximity to what is  
19 one of the most densely populated areas of our  
20 country, and that's comprised of both Connecticut  
21 and New York residents. And for a sense of  
22 perspective, if you consider that the entire  
23 population of the state of Connecticut is 3.6  
24 million people with the greater weight of that  
25 population weighted toward the southwest corner,

1 and also consider that Danbury Proton is located  
2 within 30 miles of major population centers in  
3 Danbury, Stamford, Norwalk, Bridgeport, Waterbury;  
4 consider the fact that 98 percent of residents of  
5 Fairfield County, which is the most populous  
6 county in Connecticut, live within 25 miles of the  
7 site; these are all compelling reasons why it  
8 makes sense to locate a proton therapy treatment  
9 room in Danbury.

10 So again, against this backdrop of a total  
11 state population of 3.6 million people, when you  
12 look at the location of the Danbury Proton  
13 facility and you draw a circle of 25 miles around  
14 it, there's a population of about a million  
15 people. And that's on par with what we see in  
16 Wallingford, a 25-mile radius; you see about a  
17 million people.

18 But what happens when you draw that circle  
19 further out in Danbury from 25 miles to 50 miles,  
20 the population within that ring jumps from  
21 1 million people to 17 million people. And if you  
22 draw it even further out to 75 miles, there's a  
23 population of 22 million.

24 So again, in our state with 3.6 million  
25 people the Danbury Proton proposal would be

1 located within 50 miles of 17 million people in an  
2 area of the state that, in contrast to much of the  
3 rest of the state, is growing and not shrinking.

4 And I think given the area demographics, it  
5 is not coincidental that in February of this year,  
6 the New York Proton Therapy Center announced that  
7 it is the fastest growing of the 40 proton centers  
8 in the United States.

9 And if you look at the history of the  
10 development of proton therapy centers, including  
11 independent centers like Danbury Proton, they have  
12 thrived in areas with far less population density,  
13 areas with population density that is not even  
14 close to what we see around Danbury.

15 Even if you look at Massachusetts General  
16 Hospital with its four treatment rooms, it has  
17 been forced to ration care for years now. And MGH  
18 with its four rooms is located in a smaller  
19 demographic area than Danbury Proton. So the case  
20 for need is laid out comprehensively in our  
21 record. It includes an independent report from  
22 IHS Markit. And it also includes the entirety of  
23 the record of the Connecticut Proton Therapy  
24 Center current application which was admitted and  
25 noticed as part of the record in the Danbury

1 Proton application.

2 And so on the issue of need, which of course  
3 is the paramount consideration in this process,  
4 the proposed decision concludes that the national  
5 statistics and statistics at other centers that we  
6 provided were, quote, not shown to be  
7 representative of Connecticut, and that Danbury  
8 Proton failed to identify Connecticut's need.

9 And our response to that conclusion is,  
10 that's simply not accurate. Danbury Proton  
11 submitted American Cancer Society statistics  
12 summarizing cancer incidents in Connecticut in  
13 support of its need in this state, and in  
14 particular the densely populated region of  
15 Southwest Connecticut.

16 And so the first point I would make is that  
17 OHS has now cited those very same statistics as  
18 supporting its finding a need in the Connecticut  
19 Proton Therapy Center decision.

20 And the second point I would make is that the  
21 Connecticut statistics, both the cancer society  
22 statistics and the tumor registry data are  
23 consistent with the broader non Connecticut  
24 specific statistical data that has been supplied.

25 So in our view, there's no basis upon which

1 to disbelieve that the distribution of Connecticut  
2 cancer patients has somehow diverged from what we  
3 see around the country in terms of the broader  
4 distribution of cancer patients. And if anything,  
5 Connecticut with its older population has a  
6 population that is more likely to require cancer  
7 treatment.

8 But what it comes down to in our point, in  
9 our view at this point is that the answer to the  
10 question of whether there is need for proton  
11 therapy in Danbury can now be definitively  
12 answered in the affirmative by looking out further  
13 than the decision that has been made and the  
14 findings that have been made in the Connecticut  
15 Proton Therapy Center.

16 And the approach that OHS took to determining  
17 need in that docket was to take the State's tumor  
18 registry and then apply census percentages  
19 developed by Hartford HealthCare and Yale  
20 radiation oncologists to conservatively determine  
21 a pool of patients in Connecticut who would be  
22 suitable and likely to receive proton therapy.

23 And that table is table two in the  
24 Connecticut Proton Therapy Center decision. And  
25 what that concludes, again under a conservative

1 projection is that there will be a need for proton  
2 therapy among 992 Connecticut patients per year --  
3 again, 992 Connecticut patients per year as a  
4 conservative projection against table two in the  
5 Connecticut Proton Therapy Center decision.

6 And the decision goes on to determine that --  
7 again these 992 Connecticut patients only. This  
8 is disregarding any potential need in New York --  
9 that Connecticut Proton Therapy Center in  
10 Wallingford will only be able to serve 208  
11 patients in year one, 397 patients in year two,  
12 479 patients in year three, and 487 patients in  
13 year four, at full capacity.

14 So in other words, we have a finding from OHS  
15 that among Connecticut patients alone there will  
16 be an unmet need for 784 patients in year one, an  
17 unmet need for 595 patients in year two, an unmet  
18 need for 513 patients in year three, and an unmet  
19 need for 505 patients in year four at full  
20 operational capacity.

21 And so when you consider that and put that in  
22 the perspective of the projected -- again  
23 conservatively projected 992 Connecticut-only  
24 patients who would be receiving proton therapy in  
25 a given year, even when you add in Danbury

1 Proton's capacity projected to be 338 patients per  
2 year, we still will not be meeting the need for  
3 proton therapy in our state between the two  
4 centers.

5 And so when you combine the two, the capacity  
6 of the two centers we will be in a much better  
7 position to meet the needs of the State, both in  
8 terms of the total demand for proton therapy but  
9 also in regard to the proportion of cancer types  
10 treated with proton therapy.

11 So again the combined capacity would add up  
12 to 825 patients a year, and we have a projection  
13 of 992 Connecticut patients only who will be in  
14 need of proton therapy. So we have conclusive  
15 findings that there is need for additional proton  
16 therapy capacity.

17 Another criticism that's leveled at Danbury  
18 Proton in the proposed decision is that 30 to 40  
19 percent of its patients are projected to be  
20 referred by area providers, but Danbury Proton has  
21 no formal arrangements with area providers. And  
22 that is very intentional on the part of Danbury  
23 Proton.

24 It will be open to all patients regardless of  
25 system affiliation or referral source. And I

1 think that OHS has recognized the importance of  
2 serving those patients, because what we see in the  
3 decision on Connecticut Proton Therapy Center is  
4 that there's a condition that the center in  
5 Wallingford accept patients from outside the  
6 member networks, which of course is very  
7 important.

8 And it's clear that OHS credited the  
9 testimony given by the representatives of  
10 Connecticut Proton Therapy Center that the vast  
11 majority of its patients are expected to come from  
12 its networks, that even under conservative  
13 projections that center could meet all of the  
14 capacity of the center using only patients from  
15 within those two networks.

16 That there was a projection that 80 percent  
17 of patients served at the Wallingford facility  
18 would originate from the Yale New Haven Health and  
19 Hartford HealthCare System. And we see that OHS  
20 has credited that testimony, and in the decision  
21 has supplied a projected utilization rate for the  
22 Wallingford center. And what you see at full  
23 operational capacity in 2025 is the center will be  
24 able to serve a total of 487 patients, but of  
25 those 487 patients, only 97 are projected to

1 originate from outside the Hartford HealthCare and  
2 Yale networks.

3 And so in other words, less than 20 percent  
4 of the patients who will receive treatment at that  
5 center are forecast to originate from outside the  
6 member networks. And that will result in  
7 substantial imbalance to patient access to proton  
8 therapy in our state, and here's why we say that.

9 If we measure the presence of the Yale New  
10 Haven and Hartford HealthCare networks in  
11 Connecticut, which we did of record -- and  
12 particularly at the hearing, in our public hearing  
13 responses, if you use hospital bed count as a  
14 metric what you see is that those two networks  
15 account for 5,177 hospital beds in our state.

16 All other healthcare providers' systems'  
17 independent hospitals account for 3,739 hospital  
18 beds in our state, which as it turns out, tend to  
19 be weighted toward the western and southwestern  
20 parts of our state.

21 And so when using these metrics, what you see  
22 is the Yale and Hartford networks accounting for  
23 58 percent of the state's hospital bed capacity.  
24 But what we see in the approval of the certificate  
25 of need is that they're anticipating that 80

1 percent of their patients treated at Wallingford  
2 will originate from their own networks.

3 So that, that is an imbalance. And so  
4 that's, again that's the reason why Danbury Proton  
5 is so critical to meeting the State's need, not  
6 only from a total demand perspective, but also  
7 from the perspective of treating patients and  
8 meeting that need in an inequitable manner.

9 When you factor in the out-of-state hospitals  
10 in New York that are within the primary service of  
11 Danbury Hospital, you see a figure that is much  
12 larger than the total hospital bed count of the  
13 Yale and Hartford HealthCare Network. So again,  
14 it's just there's no questioning that there's  
15 sufficient need for these services among the  
16 patients located within the primary service area  
17 of Danbury Proton.

18 On the issue of cost effectiveness. Again,  
19 this appears to be a situation where there is  
20 conflict between the findings in the Connecticut  
21 Proton Therapy Center decision and the Danbury  
22 Proton proposed decision.

23 In the Danbury Proton decision, there is a  
24 general doubt expressed about whether or not  
25 proton therapy is cost effective, but in the

1 Connecticut Proton Therapy Center decision there  
2 are very clear findings and statements that -- and  
3 I'll read them.

4 Quote, while proton therapy is potentially  
5 initially more expensive than traditional X-ray  
6 radiation therapy, the difference in costs should  
7 be offset through the reduction in need for  
8 potential treatment of other side effects,  
9 diseases and secondary cancers. Further, there  
10 are likely to be fewer hospitalizations and a  
11 corresponding reduction in costs, which would  
12 offset the increased costs of proton therapy.

13 So on the issue of whether or not proton  
14 therapy is cost effective, in our view it's  
15 incumbent upon OHS to correct this conclusion in  
16 the Danbury Proton application to align with its  
17 conclusion in the Connecticut Proton Therapy  
18 decision and find that proton therapy, as it is,  
19 is on the whole cost effective for Connecticut  
20 patients.

21 And a related point to cost effectiveness, it  
22 has to do with the fact that there can be no  
23 question that approving a second center for which  
24 there is clear patient need will improve the cost  
25 effectiveness of proton therapy treatment for

1 Connecticut patients.

2 Having a monopoly on proton therapy  
3 controlled by the state's two largest healthcare  
4 networks without any competitive pressure is  
5 simply a prescription for high costs. And we see  
6 that out of concern for that OHS has chosen to  
7 impose cost control conditions on the Connecticut  
8 Proton Therapy Center Certificate of need. But in  
9 our view the State should have the benefit of  
10 both, both the competitive pressures and these  
11 sensible conditions that have been imposed by OHS.

12 And allowing a truly and intentionally  
13 independent provider with an open referral  
14 platform like Danbury Proton serving as an  
15 alternative choice for patients in our state can  
16 only yield benefits.

17 We do -- Danbury Proton does laud the  
18 conditions that have been imposed on the  
19 Connecticut Proton Therapy Center, and many of  
20 those conditions that have been identified are  
21 already planned for, for the Danbury Proton  
22 facility including providing insurance resources  
23 for patients and financial assistance for  
24 patients.

25 Danbury Proton would certainly also agree to

1 a cap on a rate increase, OHS apply the 3 percent  
2 cap per year or less cap on the Connecticut Proton  
3 Therapy Center. And in fact, if you look at the  
4 Danbury Proton proforma financial projections that  
5 were submitted with its application, Danbury  
6 Proton is actually based on forecasting an  
7 increase of half of that, at only 1 and a half  
8 percent per year.

9 And certainly, Danbury Proton would welcome  
10 the opportunity to work with the health equity  
11 expert to ensure equitable access to patients, and  
12 to provide reporting on those efforts to OHS on a  
13 regular basis.

14 And so I do want to state very clearly and  
15 unequivocally that we're at OHS willing to approve  
16 the Danbury Proton application. It would accept  
17 all the same conditions that have been imposed on  
18 Connecticut Proton Therapy Center as well as any  
19 others that OHS might deem appropriate for the  
20 Danbury location. And it certainly would invite  
21 and welcome discussions with OHS around those  
22 issues.

23 And in our view, were such a conditional  
24 approval to be provided to Danbury Proton,  
25 Connecticut patients would receive benefits, both

1 the benefits of competitive pressures for care,  
2 delivery and pricing as well as the pricing  
3 mandates that OHS has developed. And in our view  
4 that's the optimum solution for Connecticut  
5 patients.

6 The last points I would like to touch on are  
7 in regard to access. And again, importantly OHS  
8 found in the proposed decision that Danbury Proton  
9 would improve quality and accessibility for  
10 patients in need of proton therapy. And it was  
11 rightly persuaded, as stated in the Connecticut  
12 Proton Therapy Center decision, that allowing for  
13 local treatment in a manner that does not  
14 necessitate patient and family relocation is  
15 critical to providing meaningful access to proton  
16 therapy for Connecticut patients.

17 And that concept has always been at the heart  
18 of Danbury Proton's application. Access to proton  
19 therapy among Connecticut patients is completely  
20 inequitable right now. Only those with financial  
21 means and the ability to travel and take time off  
22 from work can have access to proton therapy.

23 And at our public hearing we heard from  
24 numerous proton therapy patients who had such  
25 means testifying and pleading with OHS to make the

1 treatment that they were fortunate to receive  
2 meaningfully available to all Connecticut  
3 residents.

4 Because the truth is if you live in Norwalk  
5 or Stamford and you have to work every day, or if  
6 you don't have a car -- or even if you do,  
7 traveling to Wallingford on a daily basis for  
8 weeks on end is not a realistic option for  
9 treatment. One treatment room in Wallingford is  
10 inadequate to provide meaningful access to all  
11 residents in all corners of our state who could  
12 benefit from proton therapy.

13 And as things stand, our State is already  
14 behind the rest of the country in terms of access  
15 to proton therapy. And in terms of the growth  
16 we're seeing in proton therapy's utilization, the  
17 concern is that as a State we'll continue to lag  
18 behind with only one treatment room operating in  
19 our state.

20 So in conclusion, Director Veltri, the need  
21 for a second treatment room in the southwest  
22 corner of our state is clear. And there's no  
23 downside risk to our State in approving Danbury  
24 Proton's certificate of the application. There's  
25 only upside.

1           There's upside to the Danbury community.  
2           There's upside to the state's economy. There's  
3           upside to cancer research efforts. But of course,  
4           most importantly access to this life saving and  
5           life preserving medical treatment to Connecticut  
6           patients who are unquestionably in need of it  
7           would be accomplished by granting a certificate of  
8           need for a second location in Danbury.

9           So on behalf of Danbury Proton, we request  
10          that you give thorough and thoughtful  
11          reconsideration to its certificate of need  
12          application. We're happy to answer any questions  
13          you may have today, or should you desire to  
14          formulate written questions, we'd be happy to  
15          provide written answers very shortly -- if that  
16          would be helpful.

17          And again, we would welcome discussions with  
18          OHS around any conditions that would persuade OHS  
19          to grant Danbury Proton's certificate of need  
20          application.

21          So again, thank you for your time this  
22          morning.

23   **THE HEARING OFFICER:** Thank you very much, Mr. Hardy.

24          I don't have any questions at this time. I  
25          appreciate you coming today and making your

1 arguments before me.

2 I want to let everyone know here today, first  
3 of all, I appreciate attendance. And we will be  
4 basing a decision, a final decision in this matter  
5 that I will be issuing. We will do so in  
6 accordance with Chapter 54 of the General  
7 Statutes. And if we have any followup, we will be  
8 sure to reach out to you, Mr. Hardy, on behalf of  
9 your client.

10 But other than that, I think I just want to  
11 thank everyone for being here today. Appreciate  
12 the respectful manner in which this was conducted  
13 and we will be back to you with a final decision  
14 or any questions we might have shortly, hopefully.  
15 So I want to thank you again for attending  
16 everyone.

17 And with that, would conclude the hearing for  
18 today. Thank you. Thank you very much.

19 Take care everybody.

20 MR. HARDY: Thank you.

21  
22 (End: 10:33 a.m.)  
23  
24  
25

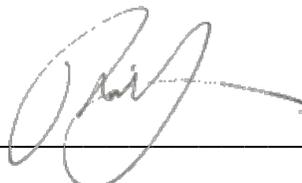
STATE OF CONNECTICUT  
(Hartford County)

I, ROBERT G. DIXON, a Certified Verbatim Reporter, and Notary Public for the State of Connecticut, do hereby certify that I transcribed the above 29 pages of the STATE OF CONNECTICUT OFFICE OF HEALTH STRATEGY, PUBLIC/ADMINISTRATIVE HEARING, in Re: DOCKET NO: 20-32376-CON, ACQUISITION OF A COMPUTED TOMOGRAPHY ("CT") SIMULATOR AND TECHNOLOGY NEW TO THE STATE, (STATUTE REFERENCE 19A-639) BY DANBURY PROTON, LLC (DANBURY, CT); held before: VICTORIA VELTRI, ESQ., THE HEARING OFFICER, On April 22, 2022, via teleconference.

I further certify that the within testimony was taken by me stenographically and reduced to typewritten form under my direction by means of computer assisted transcription; and I further certify that said deposition is a true record of the testimony given in these proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

WITNESS my hand and seal the 20th day of May, 2022.



Robert G. Dixon, CVR-M No. 857

My Commission Expires:

6/30/2025